LET THEM SPEAK

By some calculations they number 300 million, from the farthest reaches of the globe. Some of them constitute well-defined groups with distinct political or geographical identities. Others are obscure and may not even be known in their own countries.

Inhabiting bleak, Arctic environments or lush, tropical jungles, they have been forced to retreat into enclaves and live under threat of extinction. Invariably, their way of life is jeopardized by modern technologies, short-sighted land-use policies and insensitive attempts at integration under paternalistic rulers.

"They" are the indigenous, or "native", peoples found in every region of the world. From North America to Latin America, from Europe to Africa, Asia and throughout the Pacific, the march of colonialism, the spread of religion and the growth of trade led to waves of settlers expropriating large tracts of land. In the process, indigenous groups and tribes saw their traditional culture eroded and their landholdings confiscated or signed away as part of the economic coercion to which they were subjected. For many, extermination became a grim reality.

In the post-war era of the past 40 years, the growing awareness about human rights in general was not matched by the same progress in enhancing the rights of indigenous groups. But a new activism by Indian, tribal and aboriginal groups in the last decade has given much-needed momentum to the debate over the rights of "native" peoples. The shop-worn stereotypes of indigenous peoples as being "backward" and resistant to change have been challenged successfully at the national and international levels. One can almost discern a renaissance in indigenous cultures and the self-confidence with which these groups have taken up the political cudgel.

Indigenous peoples are making headlines nowadays on two major counts: their open rejection of the concept of integration and their concern over the adverse effects of large-scale economic development projects on land they have inhabited for centuries. The perennial problem of defining the term indigenous has yet to be resolved. One school of thought would limit the category to only those peoples invaded by European colonial Powers such as North American Indians, aboriginal peoples of Australia, tribes of the Amazon, the Bushmen of the Kalahari, etc. Yet, the South-east Asian hill tribes such as the Hmong and the Karen or the plains tribes like the Gonds or the Santals of India surely cannot be excluded from a rational evaluation of the term.

Some Governments have seen fit to link colonization of indigenous groups to Western Powers, rejecting the idea that there are any indigenous peoples within their territories. While ancestry, distinctive culture, language, residence and group self-identification are often a measure of such status, the spectrum of communities that may fall into this category complicates the already difficult task of reaching an acceptable definition. Indigenous groups are more concerned with determining their own members, while the international community grapples with definitional semantics. But such communities have reacted vigorously to suggestions that they are simply minorities under a different label. They are often hampered in attempts to be recognized as indigenous by the mystification about them that is deliberately encouraged.

How many people would deny that the recent film "The Gods Must Be Crazy" brought the Kalahari San, or Bushmen, into our living-rooms for the first time? In this amusing but thinly disguised propaganda piece funded by the South African Government, the Bushmen are paraded as a quaint people, almost a mascot for their colonizers who point proudly to their timeless values as those of an indigenous people living in har-

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mony with nature in the eastern part of Namibia and north-western Botswana. Of the estimated 21,000 San in Namibia, the majority live as farm labourers in white areas and about 30 per cent in Bushmanland, a tiny homeland set aside under South Africa's *apartheid* policies in Namibia. The 1970s saw the progressive militarization of the San, with large numbers being recruited into ethnic battalions organized by the South African armed forces. This paralleled a programme of forced acculturation which has made the Bushmen entirely dependent on the South African administration, to the extent that it was rumoured that large numbers wished to be evacuated to South Africa once independence for Namibia was around the corner.

Disregard for indigenous groups is not the preserve of white settler populations alone, however. For instance, at least 400 different tribal communities with varying dialects, social organization and political systems are to be found throughout India. Tribal groups form a minority in many states but are in the majority in north-eastern states such as Nagaland (84 per cent) and Meghalaya (80 per cent). If one takes an indicator like literacy rates, only 11 per cent are literate compared to a total of almost 30 per cent nation-wide.

The history of limited concessions to these groups, such as rehabilitation, is dismal. Evacuation from lands destined for dam-building and irrigation schemes often begins with a fight for just compensation and leads to a struggle for survival. When the first major dam in the state of Himachal Pradesh, the Bhakra-Nangal Dam, was constructed in 1954, roughly 2,000 families were evacuated. As of the mid-1980s, only 730 of them were resettled. The Narmada River Valley project, one of the largest ever to be undertaken in India, will directly affect more than 20 million people in the states of Madhya Pradesh, Maharashtra and Gujarat and is expected to take some 45 years to complete. Great alarm has been expressed by indigenous groups over the turmoil it will create. Citizens lobbies have been organized only to come face to face with equally powerful government and industrial lobbies.

The experience of India has been played out in several different arenas, not least of all in Brazil. Based on policy dating back to the 1940s, the "National Integration Plan" of the Brazilian Government was put into action in the 1970s and involved the building of roads and the resettlement of thousands of peasants as a substitute for land reform. The President of Brazil at the time was said to have based Government policy on: "Men without land in the North-east. Land without men in the Amazon." A scheme of tax breaks to promote private-sector investment was instituted, resulting in widespread clearing of forests to enable commercial logging, mining and cattle-ranching. At least 10 per cent of the original pristine rain-forests were destroyed and the indigenous peoples were dispossessed, with lasting damage being caused to the ecological diversity and stability of the Amazonian ecosystem.

The Brazilian Government has recently become aware of the impact of such rapacious development and has tried to reverse the consequences. In an anniversary issue of *National Geographic*, the story of a group of Amazonian Indians known as the Urueu-Wau-Wau was recounted:

> *"To celebrate the killing of a rubber-tapper who encroached on their indigenous lands, Urueu-Wau-Wau villagers perform a victory dance. Because their territory is off-limits to outsiders, the warriors face no reprisals from the Brazilian government. . . . Now Brazilian law declares inviolate this land once compared to Eden."*

Located in the highlands of Rondônia, this Amazonian tribe is officially thought to number 1,200, but so few dwellings have been sighted that it is possible that fewer than 350 actually survive. The majority of the Brazilian Indians (61 per cent) live in Amazonia, in small, scattered tribal groups and are largely dependent on the tropical forest for cultural and economic survival. The greater part of the Amazon forest is in Brazil and, in 1970, when the Government began to en-

courage clearing of the Amazon lands, the total indigenous population numbered 120,000. The Indians of the Amazon have been prime examples of the casualties of a technocratic model of integration and development. Certainly reforms and concessions are under way, but for advocates of sovereignty over natural resources and outright title to the land, government policy is still antagonistic to the territorial integrity and the right of self-determination of the indigenous peoples.

The rights of indigenous peoples have not only been on the agenda of developing countries. In North America, the rights of Indians and the Inuit have been articulated by those peoples themselves, with state and federal governments as the target. An article in the *Virginia Journal of International Law* surveyed the efforts undertaken outside the United Nations to highlight the dilemma faced by the Inuit, the term by which the Eskimos prefer to be addressed.

> *"The number of issues affecting Inuit and other northern peoples is rapidly mounting. Examples include ocean dumping, Arctic haze, acid rain, militarization, migratory birds, endangered and threatened species and resource development. . . . What is disturbing is the extent to which indigenous peoples are shut out from participating in and contributing to numerous national and international institutions."*

The Inuit Circumpolar Conference, an Inuit organization based in Canada, was responsible for two major conferences in 1977 and 1980 which served to catalyse Inuit involvement in protecting their environment and way of life, as well as give them more international visibility. While no nation has yet recognized land rights to the absolute satisfaction of the indigenous peoples, recent Canadian legislation is an interesting halfway measure. The Cree-Napaski Act of 1984 leaves basic ownership rights in the possession of Québec, but the exclusive use of and benefits from the land remain with the Indians. The Indian groups administer, manage and use the land and resources as if they were owners. Although Québec owns all mineral and subsurface rights, it must secure Indian permission to exploit the resources and must provide compensation for their use.

When discussing indigenous groups, it is often overlooked that their symbiosis with the land is very direct and crucial. Land is owned communally and no individual can permanently alienate land from the community. The tribe is the trustee of the land it occupies, and this includes not only its living members but also ancestors and future generations. For indigenous peoples, land and blood are homologous.

The benign neglect of indigenous rights is at odds with the many constitutional provisions, statutes and judicial precedents that Governments display as their track record. In some instances, indigenous groups have legal status conferred on them, which frees them from certain obligations but may limit their enjoyment of certain rights. Another approach is for the State to ensure all the rights and privileges that are accorded to individual inhabitants but still take account of the special needs of indigenous peoples. The drawback of these often well-intentioned but misguided policies has been that they do not satisfactorily address the need for autonomy and self-determination. The premise suggests that retaining central government control over such groups will allow the State to pay lip-service to tolerance, while gradually chipping away at their identity with a view to integrating them in the mainstream of these societies.

Precisely because of State control over indigenous rights, the international community has paid scant attention to the issue. However, action by the UN seems to have reached a major turning-point: we have seen the first stirrings of global interest in indigenous groups as a legal entity.

The UN is too young to have, historically, been in the vanguard of action by the community of nations on behalf of indigenous peoples. Yet as early as 1921, the International Labour Organisation (ILO) carried out a series of studies on indigenous workers and, subsequently, set up a Committee on National Labour. This was

followed by a Committee of Experts on Indigenous Labour in 1951 and the publication of a comprehensive reference book in 1953 entitled *Indigenous Peoples: Living and Working Conditions of Aboriginal Populations in Independent Countries*, which amounted to a survey of indigenous peoples and the assistance provided to them.

A pioneer effort in international legislation addressing indigenous rights was made by ILO Convention No. 107 in 1957. Though viewed as progressive in the 1950s, its shortcomings soon became apparent because it advocated assimilation and non-discrimination even as it recognized the right of collective and individual landownership, customary laws and compensation. In 1986, a new initiative was undertaken to revise the Convention, which had been criticized by indigenous groups and non-governmental organizations as paternalistic and counterproductive.

A revised convention should promote greater consultation between communities and Governments and eliminate the provisions that suggest absorption. One of the wrinkles to be ironed out was the concern of the indigenous groups that they be described as peoples, not populations. The term "peoples" was adopted with the qualification that it had no further implications under international law which would ordinarily connote the right to self-determination. Lee Swepston, an ILO specialist, when asked whether any of the groups involved in negotiating the convention were disappointed in the outcome, replied: "Well, I think everyone is in some way or another. Some because it, in their eyes, goes too far; some because it goes not nearly far enough."

The spotlight in the 1980s has been on the United Nations Commission on Human Rights. As early as 1971, its Sub-Commission on Prevention of Discrimination and Protection of Minorities appointed a Special Rapporteur to study this controversial issue. José R. Martínez Cobo, of Ecuador, completed his "Study on the Problem of Discrimination against Indigenous Populations" in 1983. It highlighted international concern over the situation of indigenous peoples and spurred non-governmental organizations to action.

A Working Group on Indigenous Populations was also created, in 1982, to review developments pertaining to protection of indigenous rights. The Working Group is pivotal to UN efforts to forge ahead with constructive action to empower and protect indigenous peoples. At its first session, the Group took the unprecedented step of allowing oral and written interventions from all indigenous organizations, rather than limiting participation to those with formal consultative status. As a result, recent sessions have seen more than 350 persons, including over 50 representatives from indigenous organizations, taking part in the deliberations.

Starting with the modest approach of providing a platform for indigenous peoples to voice their concerns, the Working Group has built up a formidable resource base detailing the diverse problems experienced by indigenous peoples around the world. Among the most frequent complaints are arbitrary arrests, torture, killing, dispossession of indigenous lands, inadequate social services, economic deprivation and destruction of cultural identity. Land rights and self-determination, complemented by cultural protection, remain fundamental demands by indigenous groups to resist assimiliation or integration policies.

In addition to chronicling the plight of indigenous peoples, since 1985 the Working Group has been preparing a draft declaration on the rights of indigenous populations. In the preliminary stages, 14 "draft principles" have been elaborated and the Chairwoman/Rapporteur, Erica-Irene A. Daes, of Greece, has been asked to prepare a full draft for upcoming sessions.

The Commission on Human Rights is also moving ahead with its consideration of the rights of indigenous groups. At the 1989 session of the Working Group, as an indication of its scope, an impressive array of such groups took part in the exchange of views: the Grand Council of the Crees of Québec, the Inuit Circumpolar Con-

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ference and the World Council of Indigenous Peoples were among those who contributed to the discussion.

After so many decades of obscurity, indigenous peoples are occupying centre stage rather than waiting in the wings. The enthusiasm shown so far augurs well for the proposed designation of 1993 as International Year of the World's Indigenous Populations (or Peoples). Without doubt we are witnessing the dawn of an era where Governments and the international community will have to contend with indigenous peoples as a political force in their own right.

One Australian aboriginal leader captured the depth of emotion felt by so many indigenous groups when he said:

> *"My land is my backbone... I only stand straight, happy, proud and not ashamed about my colour because I still have land. I can dance, paint, create... as my ancestors did before me.... My land is my foundation.... Without land we will be the lowest people in the world, because you have broken down our backbone, took away my arts, history and foundation. You have left us with nothing."*

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